

## SENATE BILL NO. 198

INTRODUCED BY M. TAYLOR

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING BUSINESS INFRASTRUCTURE INVESTMENTS UNDER THE TREASURE STATE ENDOWMENT PROGRAM; PROVIDING THAT THE BUSINESS INFRASTRUCTURE PROJECTS BE USED FOR THE CREATION OR EXPANSION OF A BUSINESS IN A LOCAL GOVERNMENT; DEFINING "BUSINESS INFRASTRUCTURE"; PROVIDING FOR LOCAL GOVERNMENT OWNERSHIP OF BUSINESS INFRASTRUCTURE; ESTABLISHING CONDITIONS FOR A BUSINESS ON WHOSE BEHALF A BUSINESS INFRASTRUCTURE PROJECT IS CREATED; AMENDING SECTIONS 17-5-703, 90-1-116, 90-6-701, 90-6-703, AND 90-6-710, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 17-5-703, MCA, is amended to read:

**"17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; and

(f) a coal severance tax school bond contingency loan fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

(3) (a) On January 21, 1992, and continuing as long as any school district bonds secured by state

1 loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in  
2 subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond  
3 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is  
4 specified in subsection (2) to be retained in the fund.

5 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless  
6 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as  
7 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the  
8 next following 12 months.

9 (4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly  
10 transfer to the treasure state endowment fund 75% of the amount in the coal severance tax bond fund  
11 in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of  
12 amounts that are transferred pursuant to subsection (3).

13 (b) Beginning July 1, 1999, and ending June 30, 2013, the state treasurer shall quarterly transfer  
14 to the treasure state endowment regional water system fund 25% of the amount in the coal severance  
15 tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and  
16 in excess of amounts that are transferred pursuant to subsection (3).

17 (c) The state treasurer shall monthly transfer from the treasure state endowment fund to the  
18 treasure state endowment special revenue account the amount of earnings required to meet the obligations  
19 of the state that are payable from the account in accordance with 90-6-710 and [section 6]. Earnings not  
20 transferred to the treasure state endowment special revenue account must be retained in the treasure state  
21 endowment fund.

22 (d) The state treasurer shall monthly transfer from the treasure state endowment regional water  
23 system fund to the treasure state endowment regional water system special revenue account the amount  
24 of earnings required to meet the obligations of the state that are payable from the account for regional  
25 water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment  
26 regional water system special revenue account must be retained in the treasure state endowment regional  
27 water system fund.

28 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
29 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be  
30 deposited in the coal severance tax permanent fund. (Terminates June 30, 2013--sec. 6, Ch. 495, L.

1 1999.)

2 **17-5-703. (Effective July 1, 2013) Coal severance tax trust funds.** (1) The trust established under  
3 Article IX, section 5, of the Montana constitution is composed of the following funds:

4 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal  
5 severance tax must be deposited;

6 (b) a treasure state endowment fund;

7 (c) a coal severance tax permanent fund;

8 (d) a coal severance tax income fund; and

9 (e) a coal severance tax school bond contingency loan fund.

10 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet  
11 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next  
12 12 months and retain that amount in the coal severance tax bond fund.

13 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection  
14 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

15 (3) (a) On January 21, 1992, and continuing as long as any school district bonds secured by state  
16 loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in  
17 subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond  
18 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is  
19 specified in subsection (2) to be retained in the fund.

20 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless  
21 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as  
22 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the  
23 next following 12 months.

24 (4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly  
25 transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund  
26 in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of  
27 amounts that are transferred pursuant to subsection (3).

28 (b) The state treasurer shall monthly transfer from the treasure state endowment fund to the  
29 treasure state endowment special revenue account the amount of earnings required to meet the obligations  
30 of the state that are payable from the account in accordance with 90-6-710 and [section 6]. Earnings not

1 transferred to the treasure state endowment special revenue account must be retained in the treasure state  
2 endowment fund.

3 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in  
4 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be  
5 deposited in the coal severance tax permanent fund."

6

7 **Section 2.** Section 90-1-116, MCA, is amended to read:

8 **"90-1-116. State matching funds program for economic development -- distribution of proceeds**  
9 **-- criteria for grants -- local economic development matching funds.** (1) As used in this section, the  
10 following definitions apply:

11 (a) "Certified community lead organization" means the entity that has been endorsed by resolution  
12 of a local governing body or a tribal government, as defined in 90-6-701~~(3)(e)~~, and that meets and  
13 maintains requirements for certification established by the department.

14 (b) "Department" means the department of commerce provided for in 2-15-1801.

15 (2) The department shall create a program to provide state funds to match local economic  
16 development funds and to fund the certified communities program. The provision of state matching funds  
17 is contingent upon specific appropriations to the department for that purpose. The department shall  
18 distribute the funds in the following manner:

19 (a) 91% to certified community lead organizations, in the form of assistance grants;

20 (b) 8% to the department for administration of the certified communities program; and

21 (c) 1% to the department for certification assistance for noncertified communities. If there are no  
22 requests for certification assistance, the 1% allocation may be used by the department for administration  
23 of the certified communities program.

24 (3) An assistance grant to a certified community lead organization is based on an annual per capita  
25 payment for the area served by the organization, according to its population in the ~~last-completed~~  
26 last-completed federal census. The grant may not exceed \$75,000 and may not be less than \$3,000 a  
27 year.

28 (4) To be eligible to receive a grant, a certified community lead organization:

29 (a) must be designated as the lead organization by the local governing body;

30 (b) shall maintain department requirements for certification;

(c) shall match each \$1 of the grant with \$1 raised from public or private sources; and

(d) shall participate in regional meetings of certified communities.

(5) Grants under this section must be used to conduct economic development programs consistent with strategic plans that are adopted by the certified communities and that are filed with the department.

(6) The department shall use its portion of the proceeds to:

(a) administer the certified communities program;

(b) assist noncertified communities in seeking certification; and

(c) organize and conduct regional meetings of certified communities."

**Section 3.** Section 90-6-701, MCA, is amended to read:

**"90-6-701. Treasure state endowment program created -- definitions.** (1) (a) There is a treasure state endowment program that consists of:

(i) the treasure state endowment fund established in 17-5-703;

(ii) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

(b) The treasure state endowment program may borrow from the board of investments to provide additional financial assistance for local government infrastructure projects under this part, provided that no part of the loan may be made from retirement funds.

(2) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects and business infrastructure projects under this part and to repay loans from the board of investments.

(3) As used in this part, the following definitions apply:

(a) "Business infrastructure" means:

(i) buildings, including remodeling of existing buildings;

(ii) streets and roads;

(iii) traffic control devices;

~~(iv) landscaping;~~

~~(v)(iv) parking;~~

~~(vi)(v) electrical systems;~~

~~(vii)(vi) plumbing systems; OR~~

~~(viii) high-speed telecommunications connections; or~~

(VII) HIGH-SPEED TELECOMMUNICATIONS CONNECTIONS; OR

~~(ix)(vii)~~ (VIII) infrastructure projects.

~~(a)~~ (b) "Infrastructure projects" means:

(i) drinking water systems;

(ii) wastewater treatment;

(iii) sanitary sewer or storm sewer systems;

(iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring; or

(v) bridges.

~~(b)~~ (c) "Local government" means an incorporated city or town, a county, a consolidated local government, a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as defined in 75-6-304.

~~(c)~~ (d) "Treasure state endowment fund" means the coal severance tax infrastructure endowment fund established in 17-5-703(1)(b).

~~(d)~~ (e) "Treasure state endowment program" means the local government infrastructure and business infrastructure investment program established in subsection (1).

~~(e)~~ (f) "Tribal government" means a federally recognized Indian tribe within the state of Montana."

**Section 4.** Section 90-6-703, MCA, is amended to read:

**"90-6-703. Types of financial assistance available.** (1) The legislature shall provide for and make available to local governments the following types of financial assistance under this part:

(a) matching grants for local infrastructure projects ~~and business infrastructure projects~~;

(b) annual debt service subsidies on local infrastructure projects ~~and business infrastructure projects~~; and

(c) loans FOR INFRASTRUCTURE PROJECTS AND BUSINESS INFRASTRUCTURE PROJECTS from the proceeds of coal severance tax bonds at a subsidized interest rate.

(2) The department of natural resources and conservation and the department of commerce:

(a) may adopt rules to commit to interest rate subsidies for local infrastructure projects and business infrastructure projects and may allow the subsidies to be paid over the life of the loan or bonding period; and

(b) may make deferred loans to local governments for preliminary engineering study costs. The applicant shall repay the loans whether or not the applicant succeeds in obtaining financing for the full project. Repayment may be postponed until the overall construction financing is arranged."

**Section 5.** Section 90-6-710, MCA, is amended to read:

**"90-6-710. (Temporary) Priorities for projects -- procedure -- rulemaking.** (1) The department of commerce must receive proposals for projects from local governments ~~as defined in 90-6-701(3)(b)~~. The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The department shall prepare and submit a list containing the recommended projects and the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2). The governor shall review the projects recommended by the department and shall submit a list of recommended projects and the recommended financial assistance to the legislature.

(2) ~~In Subject to~~ EXCEPT AS PROVIDED IN [section 6], in preparing recommendations under subsection (1), preference must be given to infrastructure projects based on the following order of priority:

(a) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

(b) projects that reflect greater need for financial assistance than other projects;

(c) projects that incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs;

(d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources;

(e) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax base or that encourage expansion of the tax base; and

(g) projects that are high local priorities and have strong community support.

(3) After the review required by subsection (1), the projects must be approved by the legislature.

(4) The department shall adopt rules necessary to implement the treasure state endowment

1 program.

2 **90-6-710. (Effective July 1, 2001) Priorities for projects -- procedure -- rulemaking.** (1) The  
3 amount of \$425,000 is statutorily appropriated, as provided in 17-7-502, to the department of commerce  
4 for each biennium for the period beginning July 1, 2001, and ending June 30, 2005, from the treasure  
5 state endowment special revenue account for the purpose of providing communities with grants for  
6 engineering work for projects provided for in subsection (3).

7 (2) The department of commerce must receive proposals for projects from local governments ~~as~~  
8 ~~defined in 90-6-701(3)(b).~~ The department shall work with a local government in preparing cost estimates  
9 for a project. In reviewing project proposals, the department may consult with other state agencies with  
10 expertise pertinent to the proposal. The department shall prepare and submit a list containing the  
11 recommended projects and the recommended form and amount of financial assistance for each project to  
12 the governor, prioritized pursuant to subsection (3). The governor shall review the projects recommended  
13 by the department and shall submit a list of recommended projects and the recommended financial  
14 assistance to the legislature.

15 (3) ~~In~~ Subject to [section 6], in preparing recommendations under subsection (2), preference must  
16 be given to infrastructure projects based on the following order of priority:

17 (a) projects that solve urgent and serious public health or safety problems or that enable local  
18 governments to meet state or federal health or safety standards;

19 (b) projects that reflect greater need for financial assistance than other projects;

20 (c) projects that incorporate appropriate, cost-effective technical design and that provide thorough,  
21 long-term solutions to community public facility needs;

22 (d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and  
23 management of public facilities and that attempt to resolve the infrastructure problem with local resources;

24 (e) projects that enable local governments to obtain funds from sources other than the funds  
25 provided under this part;

26 (f) projects that provide long-term, full-time job opportunities for Montanans, that provide public  
27 facilities necessary for the expansion of a business that has a high potential for financial success, or that  
28 maintain the tax base or that encourage expansion of the tax base; and

29 (g) projects that are high local priorities and have strong community support.

30 (4) After the review required by subsection (2), the projects must be approved by the legislature.



(5) The department shall adopt rules necessary to implement the treasure state endowment program. (Terminates June 30, 2005--sec. 10(2), Ch. 10, Sp. L. May 2000.)

**90-6-710. (Effective July 1, 2005) Priorities for projects -- procedure -- rulemaking.** (1) The department of commerce must receive proposals for projects from local governments ~~as defined in 90-6-701(3)(b)~~. The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The department shall prepare and submit a list containing the recommended projects and the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2). The governor shall review the projects recommended by the department and shall submit a list of recommended projects and the recommended financial assistance to the legislature.

(2) ~~In Subject to~~ EXCEPT AS PROVIDED IN [section 6], in preparing recommendations under subsection (1), preference must be given to infrastructure projects based on the following order of priority:

(a) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

(b) projects that reflect greater need for financial assistance than other projects;

(c) projects that incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs;

(d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources;

(e) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax base or that encourage expansion of the tax base; and

(g) projects that are high local priorities and have strong community support.

(3) After the review required by subsection (1), the projects must be approved by the legislature.

(4) The department shall adopt rules necessary to implement the treasure state endowment program."

1        NEW SECTION. **Section 6. Business infrastructure projects.** (1) Up to ~~\$2~~ \$10 million each year  
2 is available from THE PROCEEDS OF BONDS, ISSUED PURSUANT TO 17-5-701(2), FOR the treasure state endowment  
3 program, provided for in 90-6-701, to be used to fund business infrastructure projects, INCLUDING ENERGY  
4 PROJECTS. A business infrastructure project application must be made by the local government in which  
5 the business infrastructure project will be located. The business infrastructure project must be used to  
6 allow the creation or expansion of business. The infrastructure created by the business infrastructure  
7 project must be owned by the local government, but the local government may require that the business  
8 for whom the infrastructure is created maintain the infrastructure up to the point that the infrastructure  
9 connects to the applicable local government system. The funding for a business infrastructure project may  
10 not be an amount less than \$100,000 or more than ~~\$1~~ \$3 million. THE FUNDING FOR A BUSINESS  
11 INFRASTRUCTURE PROJECT MUST BE IN THE FORM OF A LOAN. THE INTEREST RATE ON A LOAN MUST BE SUFFICIENT TO PAY  
12 THE DEBT SERVICE IF THE LOAN IS MADE FROM BOND PROCEEDS AS PROVIDED IN 90-6-703. A LOCAL GOVERNMENT SHALL  
13 PROVIDE MATCHING FUNDS EQUAL TO 25% OF THE COST OF A BUSINESS INFRASTRUCTURE PROJECT.

14        (2) The business on whose behalf the local government applies for funding a business  
15 infrastructure project shall meet the following criteria:

16        (a) The business shall qualify for financing under prudent Montana banking standards.

17        (b) The business must have investments or assets equal to at least 20% of the costs of the  
18 business infrastructure project as established by an audited financial statement.

19        (c) The employees of the business must receive an average wage rate equal to 150% of the  
20 federal poverty level for a family of two.

21        (3) APPLICATIONS FOR BUSINESS INFRASTRUCTURE PROJECTS MAY BE SUBMITTED AT ANY TIME DURING THE  
22 FISCAL YEAR, AND LOANS MUST BE AWARDED BY THE DEPARTMENT OF COMMERCE. QUALIFYING BUSINESS  
23 INFRASTRUCTURE PROJECTS MEETING THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) MUST BE FUNDED IN THE ORDER  
24 IN WHICH THE APPLICATIONS ARE RECEIVED. If a local government receives funding for a business infrastructure  
25 project, then that local government loses priority for funding in the following year, and all qualifying  
26 business infrastructure projects for other local governments that did not receive funding in the prior year  
27 have priority over a qualifying project submitted by a local government that received funding in the prior  
28 year.

29  
30        NEW SECTION. **Section 7. Codification instruction.** [Section 6] is intended to be codified as an

1 integral part of Title 90, chapter 6, part 7, and the provisions of Title 90, chapter 6, part 7, apply to  
2 [section 6].

3

4 NEW SECTION. **Section 8. Effective date.** [This act] is effective July 1, 2001.

5

6 NEW SECTION. SECTION 9. TERMINATION. [THIS ACT] TERMINATES JUNE 30, 2005.

7 - END -